

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

EIGHT MILE STYLE, LLC; MARTIN
AFFILIATED, LLC,

Plaintiffs,

v.

SPOTIFY USA INC., HARRY FOX
AGENCY, LLC

Defendants.

SPOTIFY USA INC.,

Third-Party Plaintiff,

v.

KOBALT MUSIC PUBLISHING
AMERICA, INC.,

Third-Party Defendant.

Civil Case No. 19-CV-00736

Hon. Aleta A. Trauger

JURY DEMAND

**PLAINTIFFS' RESPONSE TO DEFENDANT SPOTIFY USA INC.'S
NOTICE OF PLAINTIFFS' FAILURE TO COMPLY WITH
THE FOURTH CASE MANAGEMENT ORDER**

Spotify USA Inc.'s ("Spotify") notice to this court misconstrues the relevant factual background and is improperly brought before this court. Communications between the parties have been ongoing on this issue, yet Spotify choose not to meet and confer with the parties prior to filing this notice. Further, the point of the notice is now moot as Plaintiffs have now submitted the requested information to Spotify. For these reasons, Spotify's notice should be disregarded by this court.

Multiple associates at King & Ballow have been involved in this project to narrow down the search terms to avoid producing millions of documents. The broadness of searches as required by ESI

Protocol resulted in a multitude of document hits for King & Ballow and, upon information and belief, Counsel for Spotify to sort through. Both King & Ballow and Counsel for Spotify agreed that the number of documents was far too numerous and needed to be cut back. During a telephone call between Plaintiff's Counsel Jacob Vega and Counsel for Spotify communicated that approximately 60,000 documents was a good objective to shoot for with respect to discovery obligations. Subsequent to receiving this communication, King & Ballow has made substantial attempts in decreasing its total search terms to this range of documents while still complying with Spotify's very broad discovery requests. Despite significant efforts, Plaintiffs were having difficulty getting the search terms down to a manageable hit result. On January 22, 2021, Counsel for Plaintiffs emailed Defendant Spotify USA Inc.'s counsel, Rory K. Schnieder, and attached an excel spreadsheet showcasing the number of hits that each of the search terms were generating and informed Mr. Schnieder that Plaintiffs were working to narrow the terms and provide an updated list next week. (**Exhibit A** – Email from J. Vega, January 25, 2021). On February 5, 2021, Plaintiffs' Counsel Aaron Rice informed Mr. Schneider that counsel was still awaiting the report from our eDiscovery vendor and would forward the update as soon as possible. (**Exhibit B** – Email from A. Rice, February 5, 2021).

On February 12, 2021, Counsel for Plaintiffs emailed Mr. Schneider and informed him that a new search criteria produced a family of documents amounting to 145,000. (**Exhibit C** – Email from A. Rice, February 12, 2021). On February 17, 2021, I sent an e-mail to Defendant HFA's counsel Lauren Kilgore, Chris Larocco, and Jay Bowen informing them we were finalizing search terms for Spotify this evening and hope to have the issue resolved no later than weeks-end. I also stated "if you are not agreeable to this, please advise." (**Exhibit D** – Email from V. King, February 17, 2021).

Plaintiffs' counsel received no follow-up from the aforementioned counsel to this communication. As of February 19, 2021, Plaintiffs' Counsel, Aaron Rice, sent Defendant Spotify a copy of the final search terms. (**Exhibit E** – Email from A. Rice, February 19, 2021). As of February

19, 2021, Plaintiff's Counsel, Aaron Rice, sent Defendant HFA a final copy of the final search terms to Lauren Kilgore and Chris Larocco. (**Exhibit F** – Email from A. Rice, February 19, 2021).

Dated: February 19, 2020

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CERTIFICATE OF SERVICE

This is to certify that on February 19, 2021, a copy of the foregoing Plaintiffs' Response To Defendant Spotify Usa Inc.'s Notice of Plaintiffs' Failure To Comply With The Fourth Case Management Order was filed electronically with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to all parties and counsel of record by operation of the Court's CM/ECF system. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

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Dated: February 19, 2021

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